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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: RODRIGUEZ ET AL. GRP. ART UNIT: 3625
APPL. NO.: 09/894,508 EXAMINER: HAQ, NAEEM
FILING DATE: JUNE 28, 2001 DOCKET NO.: A-7371
TITLE: CONFIGURATION OPTIONS FOR TRANSACTION PROCESSING

June 29, 2006

TRANSMITTAL OF PETITION FOR REVIVAL OF APPLICATION FOR APPLICATION ABANDONED
UNAVOIDABLY PURSUANT TO 37 C.F.R. § 1.137 and
PETITION PURSUANT TO 37 C.F.R. § 1.47(a)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith for filing in the above-identified patent application, please find:

1. ☒ Petition for Revival of Application Abandoned Unavoidably w/Exhibit A (in duplicate)
2. ☒ Return Postcard

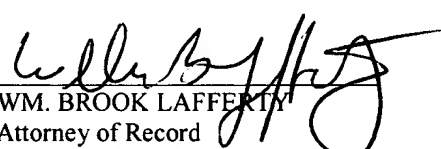
In the event that a fee is due, please charge to Deposit Account No. 19-0761. A duplicate original of this sheet is enclosed.

Respectfully submitted:

SEND CORRESPONDENCE TO:

Scientific-Atlanta, Inc.
Intellectual Property Dept. MS 4.3.518
5030 Sugarloaf Parkway
Lawrenceville GA 30044

By:


WM. BROOK LAFFERTY
Attorney of Record
Reg. No.: 39,259
Phone: (770) 236-2114
Fax No.: (770) 236-4806

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL # **EV666826141 US** in an envelope addressed to:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on June 29, 2006


Rebecca Padilla



UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): RODRIGUEZ ET AL. ART GROUP: 3625
APPL. NO.: 09/894,508 EXAMINER: HAQ, NAEEM
FILING DATE: JUNE 28, 2001 DOCKET NO.: A-7371
TITLE: CONFIGURATION OPTIONS FOR TRANSACTION PROCESSING

June 29, 2006

**PETITION FOR REVIVAL OF APPLICATION FOR
APPLICATION ABANDONED UNAVOIDABLY
PURSUANT TO 37 CFR § 1.137(a)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Applicants in the above-captioned patent application hereby petition
The Honorable Commissioner of Patents and Trademarks to revive the above-identified
application under 37 CFR § 1.137(a), and state:

1. This application was filed on June 28, 2001.
2. On August 2, 2005, a Restriction Requirement was mailed to Attorney.
3. On September 2, 2005, Attorney for Applicant mailed an election selecting Group I, claims 1-39 and canceling claims 40-61.
4. On June 6, 2006, Attorney received a phone call from the Examiner informing Attorney that application was abandoned for failing to respond to a Notice of Non-Compliant Amendment (hereinafter referred to as "Notice"). Attorney for Applicants assert that no such Notice was received in the mail at Attorney's address.
5. Also on June 6, 2006, Attorney checked PAIR and found that the Notice was visible in PAIR. However, Attorney also found in PAIR that there was no transmittal/cover sheet with a mailing date and address accompanying the Notice. Therefore, Attorney asserts that there is no document evidencing the actual mailing date of the Notice or that the Notice was mailed to the correct address of the Attorney.
6. Also on June 6, 2006, the Examiner faxed a copy of the Notice. The Examiner's facsimile is attached hereto as Exhibit A. The Examiner's facsimile also did not include the transmittal/cover sheet which would have evidenced the date of mailing as well as whether it was mailed to the correct address.

7. Attorney therefore respectfully petitions that this case be revived because the file history is void of sufficient evidence that would indicate that the Notice ever included a transmittal/cover sheet which would have indicated when the Notice was mailed and whether the Notice was actually mailed to Attorney.
8. This petition is filed within one year of the date of abandonment.
9. The abandonment of the present application unfortunately occurred despite Attorney's best efforts. Further, in view of the above-identified facts, Attorney for Applicants asserts that the failure to respond to the Notice was unforeseen. Applicants respectfully submit that the abandonment of this application was unavoidable insofar as any reasonable and timely act by the Applicants could have avoided the abandonment.

"The word 'unavoidable' is applicable to ordinary human affairs, and requires no more or greater care than is generally used and observed by prudent and careful manner ... It permits them in the exercise of this care to rely on ... worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection on these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable...", *In re Katrapat*, 6 U.S.P.Q.2d, (Commissioner of Patents and Trademarks, 1988).

10. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(a) was unavoidable.
11. A response to the Notice of Non-Compliant Amendment is included herewith. Attorney has corrected the status identifier of the one claim to indicate the status as "Original" rather than "Amended".

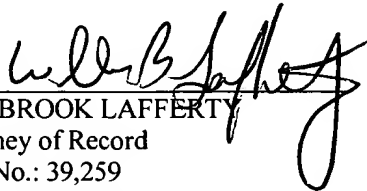
Request is made to charge Account No. 19-0761 in the amount of \$500.00 in payment of the petition fee under 37 CFR § 1.17(l). Any deficiency or overpayment should be charged or credited to this deposit account. A duplicate original of this Petition is enclosed.

Respectfully submitted:

SEND CORRESPONDENCE TO:

Scientific-Atlanta, Inc.
Intellectual Property Department MS 4.3.510
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

By:



WM. BROOK LAFFERTY
Attorney of Record
Reg. No.: 39,259
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Rebecca Padilla

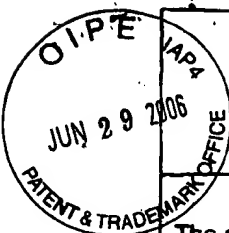
Office: 571-272-6758
Fax: 571-273-6758

USPTO**Fax****To:** Brook Lafferty**From:** NAEEM HAQ**Fax:** 770-238-4551**Pages:** including Fax cover sheet: 2**Phone:** [Click here and type phone number]**Date:** 6/6/2006**Re:** Application 09/894,508**CC:**☐ **Urgent:**☒ **For Review**☐ **Please Comment**☐ **Please Reply**☐ **Please Recycle**

• **Comments:** Select this text and delete it or replace it with your own. To save changes to this template for future use, choose Save As from the File menu. In the Save As Type box, choose Document Template. Next time you want to use it, choose New from the File menu, and then double-click your template.

Office of Petitions
571-272-3282

Exhibit A



Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

09/894,608

Applicant(s)

Examiner

Hag, Nheem

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: Amended is not Proper

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/propnotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted within the time period set forth in the final Office action.
- Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

- Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or
- Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Eric Davis

Legal Instruments Examiner (LIE)

571-272-2955

Telephone No.